



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 13, 1996

Mr. Arturo D. Rodriguez, Jr.
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR96-2077

Dear Mr. Rodriguez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101782.

The City of San Antonio (the "city") received a request for, among other things,¹ "any information you have which Ms. Miles acquired, prior to the date she signed her 'preliminary determination' on July 28, 1996 and which formed the basis of Ms. Miles' accusation of possible racial discrimination." The information responsive to the request is found on a client intake form that the city's fair housing investigators use to document complaints of discriminatory housing practices. You contend that this information is excepted from disclosure under section 552.101 of the Government Code because a municipal ordinance deems it confidential.

Section 552.101 excepts information from disclosure "if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision." However, a governmental body may not pass an ordinance or rule purporting to make certain information confidential unless the governmental body is statutorily authorized to do so. *See* Open Records Decision No. 594 (1991) at 3. Chapter 9, article III of the San Antonio Code provides for the taking and investigation of complaints of discriminatory housing practices. Section 9-46 provides in part:

The complaint, investigation and conciliation proceedings shall be confidential records and proceedings of the enforcing agency shall not be made public except upon the authority of the city council.

¹We assume that you have provided the requestor with access to the other information that he has requested.

San Antonio, Tex., Code ch. 9, art. III, § 9-46 (1968). You state that section 51.002 of the Local Government Code grants municipalities the authority to adopt fair housing ordinances, such as chapter 9, article III of the San Antonio Code. Assuming that section 51.002 of the Local Government Code gives the city the authority to adopt the above-quoted ordinance, section 552.101 of the Government Code, in conjunction with chapter 9, article III, section 9-46 of the San Antonio Code, excepts the requested information from disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 101782

Enclosures: Submitted documents

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(w/o enclosures)